



# Providence City

15 South Main Street  
Providence, UT 84332  
(435) 752-9441 • Fax: (435) 753-1586

## PROVIDENCE CITY PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Project Type: Code Amendment

Applicant: Providence City

Project Description: Amend Providence City Code Title 11 Subdivision Regulations by adding Chapter 6 Condominium Approval

Hearing Date: March 9, 2016

Hearing Time: 6:00 p.m.

Hearing Location: Providence City Office Building, 15 South Main, Providence UT

Prior to making a recommendation on this code amendment, the Planning Commission is holding a public hearing. The purpose of the public hearing is to provide an opportunity for anyone interested to comment on the proposal before action is taken. The Planning Commission invites you to attend the hearing in order to offer your comments.

If you are disabled and/or need assistance to attend the public hearing, please call 752-9441 before 5:00 p.m. on the day of the meeting.

Thank you,

Scarlet Bankhead  
City Administrator/Recorder

Newspaper Publication Date(s): February 28, 2016

Posting Date: February 26, 2016

Posting Locations:

1. Providence City Office Building, 15 South Main
2. Also posted on [www.providencecity.com](http://www.providencecity.com) and the Utah Public Notice Website

# PROVIDENCE CITY

## Development Review Committee Report

### Planning Commission Meeting Date:

**Request:** Amend Providence City Code Title 11 Subdivision Regulations by adding Chapter 6 Condominium Approval

**Item Type:** Code Amendment

**Applicant:** Providence City

**Prepared by:** S Bankhead

#### Staff Report Summary of Key Issues:

1. Providence City currently uses the regular subdivision process (concept, preliminary, and final plat) to divide a building into condominium units.
2. City staff feels the City should have a process specific to condominium units.
- 3.

#### FINDINGS OF FACT:

1. Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
2. UCA § 10-9a-102 Purposes -- General land use authority.  
*(1) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.*  
*(2) To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.*
3. UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
4. UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission's recommendation.
5. UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

#### CONCLUSIONS OF LAW:

1. The proposed code amendment has been processed consistent with the above Findings of Fact.

#### CONDITIONS:

#### RECOMMENDATION:

That the Providence City Planning Commission make a recommendation to the Providence City Council, that they adopt the attached code amendment to Providence City Code Title

## Chapter 6 CONDOMINIUM APPROVAL

11-6-1: PURPOSE AND INTENT:

11-6-2: SUBMISSION OF APPLICATION:

11-6-3: STAFF REVIEW:

11-6-4: PLANNING COMMISSION ACTION:

11-6-5: FINAL PLAT RECORDATION

### 11-6-1: PURPOSE AND INTENT:

- A. The procedures and requirements of this chapter shall apply to and govern the processing of condominium record of survey maps pursuant to the requirements of the condominium ownership act of 1975, Utah Code Annotated title 57, chapter 8. Said procedures and requirements shall supplement zoning, site development, health, building and other ordinances applicable to a particular condominium project, and shall apply to the approval of such projects involving new construction as well as those involving the conversion of existing structures. In addition, condominium projects, which contemplate dedication of real property or improvements for the use of the public, or condominium projects in which units are not contained in existing or proposed buildings shall also be considered subdivisions requiring compliance with the applicable provisions of this chapter.
- B. It is the intent of this chapter to establish a reasonable process whereby the city can assess the impact of mixing collective and individual ownerships, as presented in a particular condominium project, upon the public health, safety, welfare and convenience of the city. In the case of conversions of existing commercial or residential buildings to condominiums, corrections of building code violations, the upgrading of vehicle parking facilities, and safety of common functional elements of the structures are of prime importance.

### 11-6-2: SUBMISSION OF APPLICATION:

- A. Documents and Information Required: The owner or developer of a proposed condominium project desiring approval shall file the following with the planning commission:
  - 1. An application for condominium approval on a form prescribed by the city;
  - 2. Four (4) copies (20"x30" minimum , 24" x 36" maximum size) and one (1) 11" x 17" copy of the proposed record of survey map required by Utah Code Annotated section 57-6-13. The map shall also:
    - a. Be drawn to a scale no smaller than one inch equals forty feet (1" = 40');
    - b. Contain diagrammatic floor plans identifying boundaries of the project units, convertible and expandable areas or spaces and common areas;
    - c. Contain a designation of the intended use of common areas, such as storage areas, recreational areas, parking areas for owners, guests, open space, etc.;
    - d. Contain a designation of the common areas which are open to the public, which are assigned to specific units and which are semiprivate and available only to unit owners; and



- e. Contain a detailed description of existing or proposed driveways, pedestrian ways, curb cuts, walls, structures, fences, landscaping and sprinkling systems;
  - f. Show individual utility connections for each unit. The culinary water must be master metered. Providence City will bill the Condominium Association, not individual units.
- 3. Two (2) copies signed in the original of the proposed condominium declarations and bylaws.
- 4. A condominium application filing fee, which shall be equal to the filing fee the developer pays for the subdivision application.
- 5. Proposed covenants, conditions and restrictions which provide adequate guarantees for retention and maintenance of the development as approved;
- B. Meetings: The City staff (or their assigns) may, at their discretion, meet with developers to comment on incomplete applications. Such meetings shall not be deemed acceptance of such incomplete applications for purposes of determining vested rights, and the city departments shall not retain copies of such incomplete applications. The city shall not schedule meetings and hearings before the planning commission on an application that is not complete.

#### **11-6-3: STAFF REVIEW:**

Upon receipt of a completed application for approval of a condominium project, the city staff shall route copies of the application and development plans in the same manner as a standard subdivision. Additionally, preliminary review by the planning staff and fire chief shall include, but not be limited to, the following:

- A. Staff Review:
  - 1. Letter of Intent: A letter of intent shall be submitted indicating proposed concept of project for staff review. The condominium declarations and bylaws shall be reviewed as part of the final approval process and will include provisions addressing and fixing responsibility for the maintenance, upkeep and repair of common areas, including common walls, electrical, mechanical, plumbing or utility systems, recreational areas, landscaping, private streets and parking areas. The declarations shall also restrict the use of any individual residential dwelling unit to single families. The staff shall also review the declaration to require appropriate disclosure of any unusual circumstances, variances or conditions placed upon the condominium project for approval.
    - a. Fire Safety Review: The fire marshal shall inspect each structure proposed for conversion to condominiums and shall submit a report thereon to the planning staff outlining the conditions of the structures as they relate to fire safety. The fire marshal shall stipulate those conditions requiring improvement prior to occupancy in the report.
    - b. City Attorney: The city attorney shall review the declaration of condominium to assure its conformance to Utah Code Annotated and city ordinances.
  - 2. Plans and Related Documents: The staff shall review the plans and related documents to determine whether the project conforms to applicable requirements of this title, the status



or extent of nonconforming rights, applicable conditions imposed upon the building or use by ordinance, and/or conditional use permit. If the staff finds there are violations of applicable zoning ordinances or requirements, the staff may recommend denial of the condominium project until such violations have been corrected or requirements completed or monies escrowed for one hundred ten percent (110%) of the cost for correction before a decision can be made by the planning commission.

#### **11-6-4: PLANNING COMMISSION ACTION:**

- A. Compliance Requirements: Upon completion of the recommendations of the staff, the matter shall be set for consideration by the planning commission. The planning commission shall review the application to determine if it is in full compliance with:
  - 1. Applicable city ordinances;
  - 2. The requirements of the condominium ownership act (UCA 57-8);
  - 3. In every way, the project is ready for final approval.
- B. Planning Commission Action: Upon completion of the planning commission's review, it shall take action as the Land Use Authority for Subdivisions.
  - 1. Approval Granted: If the planning commission finds that the project is in compliance with applicable ordinances and the requirements of final plat approval, the planning commission shall grant approval.
  - 2. Disapproval: If the planning commission determines said project is not in conformity with requirements of the ordinances of the city; or if it rejects any offers of dedication; the planning commission may disapprove the plat specifying the reasons for disapproval.
  - 3. Reconsideration: Within thirty (30) days after the planning commission has disapproved any final plat, the developer may file with the City a revised plat and/or documents altered to meet the requirements of the planning commission. Upon receipt of the revised final plat and/or documents, and review by the executive staff, the matter shall be referred back to the planning commission for reconsideration.
  - 4. Approval and Recording Required: No final plat shall have any force or effect until the same has been approved by the signature of the mayor and has been officially recorded with the county recorder within sixty (60) days from the date of the planning commission's approval.

#### **11-6-5: FINAL PLAT RECORDATION:**

- A. Requirements: For purposes of recordation, the final approved plat shall be recorded as a subdivision and be included in the subdivision plat records of the Cache County recorder's office. Recordation by the city shall only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees are posted with the city public works department.
- B.. Covenants, Conditions And Restrictions:
  - 1. The city shall require the applicant to submit for recording covenants, conditions and restrictions which will provide adequate guarantees for the permanent retention and maintenance of open space area, landscaping, natural features, private streets, other

privately owned infrastructure and architectural design standards in accordance with applicable rules, standards, and policies including but not limited to: Utah Code Annotated, Providence City Code and the Providence City Public Works Standards and Specification Manual. The covenants, conditions and restrictions shall include, at a minimum, provisions for:

- a. The establishment of a condominium association, unless the property will continue to be held in single ownership by either a corporation, partnership or an individual and restrictions are recorded requiring establishment of a condominium association in the event that the unity of title is not maintained; and
  - b. A provision granting the city the consent of the condominium association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all units and lots within the development, to finance the cost of reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc., in the event of dissolution or default by the condominium association. It is the intent of this provision that once the City uses the special assessment area to finance the reasonably necessary maintenance, repairs, etc., future maintenance and repairs would be treated as any other city infrastructure project.
2. Each phase submitted for review shall include covenants, conditions and restrictions for approval.
3. Two (2) copies of the declaration of covenants, conditions and restrictions shall be submitted to the city signed and prepared for recording at the Cache County recorder's office prior to approval of a final plat. Prior to recordation, the covenants, conditions and restrictions shall be reviewed and approved for compliance with this chapter by the director of community and economic development and city attorney.
4. The Applicant shall be responsible for recording and recording fees.